IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 15509 of 2004

Between:

Jaleeluddin, S/o Sri Fakeer Mohammed,
R/o H.No. 3-6-130/54, Himayatnagar,Hyderabad

... PETITIONER

AND

1 Government of Andhra Pradesh, rep. by its Principal

Secretary, Municipal Administration and Urban

Development Department, Secretariat Buildings,

Hyderabad.
2 The Commissioner, Municipal Corporation of Hyderabad,

Tank Bund, Hyderabad.
3 The Additional Commissioner, Circle-3, M.C.H. Opp:

G.P.O. Abids, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or any direction especially one in the nature of a Writ of Mandamus declaring the action of the respondents in making attempts to demolish the house of the petitioner bearing Municipal H.No. 3-6-139/54, Himayatnagar, Hyderabad- 500 027, without following the procedure laid down in the Statutes such

as Hyderabad Municipal Corporations Act, 1955 and the Land Acquisition Act, 1894 as bad illegal, arbitrary, capricious, without jurisdiction, violative of principles of natural justice and Art. 300-A of the Constitution of India and also contrary to the judgment rendered by a Division Bench of this Hon'ble High Court reported in 2001 (3) ALD 173 (DB).

Counsel for the Petitioner: MR.A.GOPALAKRISHNAMACHARYULU

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

For R:2 and 3: Sri G. Rama Rao, S.C. for MCH

The Court at the admission stage made the following Order:

_

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Municipal Corporation of Hyderabad. Both the counsel agreed to dispose of the Writ Petition in terms of the order passed by the Division Bench in W.P.No.21198 of 1997 and batch, dated 03-02-1998.

2. The petitioner claims to be the owner and possessor of the shop bearing No.3-6-139/54, Liberty Road, Himayatnagar, Hyderabad having got the land as a gift from his mother on 21-11-1980 and that his name has been mutated in all government records as the owner of the house. While so, the respondent officials orally instructed the petitioner to vacate the premises to enable the Corporation to demolish the shop for the purpose of road widening.

3. When the M.C.H. undertook to widen the roads and issued notices, several writ petitions were filed before this Court, which were disposed of with certain guidelines. In W.P.No.21198 of 1997 and batch dated 03-02-1998 this Court categorically held that when the Municipal Corporation of Hyderabad proceeds with the road widening, they are bound to follow the procedure contemplated under Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). If the owner fails to give consent, the Corporation has to necessarily initiate the proceedings under

the Land Acquisition Act.

4. Having regard to the same the Writ Petition is disposed of with a direction to the respondents not to demolish the shop belonging to the petitioner without either following due process of law or private negotiations, as the case may be.

The Writ Petition is accordingly disposed of. No costs.

_____

A. **GOPAL REDDY, J**

August 31, 2004

MRR/MURTHY

To:

1 Government of Andhra Pradesh, Rep by its Principal Secretary,
Municipal Administration and Urban Development Department, Secretariat

Buildings, Hyderabad.

2 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund,

Hyderabad.

3 The Additional Commissioner, Circle-3, Municipal Corporation of Hyderabad. Opp. G.P.O., Abids, Hyderabad.

4 Two C.C.s to the G.P. for Municipal Admn. & Urban Development,

High Court Buildings, Hyderabad. (OUT).

5 Two C.D. Copies.